

## **REMARKS**

This paper is presented in response to the Office Action. By this paper, claims 2, 5 and 14 are canceled, and claims 1, 6, 7, 12, 15 and 16 are amended. Claims 9 and 19-28 have been withdrawn by the Examiner as directed to an unelected invention. Claims 1, 3-4, 6-8, 10-13 and 15-18 are now pending in view of the aforementioned cancellations, new claims, and withdrawals.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and new claims, and the following remarks. For the convenience and reference of the Examiner, the remarks of Applicant are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

### **II. Affirmation of Election**

By this paper, Applicant hereby *affirms* the provisional election of the invention of group I and species (1) (directed to claims 1-8 and 10-18) made (with traverse) by Eric Maschoff during a telephone conversation with the Examiner on September 14, 2005. Claims 1-8 and 10-18 are readable on the elected invention and species.

### **III. Rejection of Claims under 35 U.S.C. §§ 102 and/or 103**

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP") § 2131.*

Applicant respectfully notes further that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP § 2143.*

The Examiner has rejected all of the pending claims as being unpatentable under 35 U.S.C. §§ 102 and/or 103 in view of various references, either alone or in combination with each other. By this paper, claims 2, 5 and 14 are canceled and Applicant accordingly submits that the rejection of those claims has thus been rendered moot and should be withdrawn. As to the remaining claims, Applicant respectfully disagrees with the contentions of the Examiner and submits that for at least the reasons outlined below, the rejection should be withdrawn.

By this paper, Applicant has amended claim 1 to recite "... a fixed mask portion that comprises a top layer and a bottom layer; a plurality of channels extending through the fixed mask portion; a first plurality of wires positioned on the bottom layer, each wire of the first plurality of wires being disposed in a substantially spiral arrangement about a respective channel; a second plurality of wires positioned on the top layer, each wire of the second plurality of wires being disposed in a substantially spiral arrangement about a respective channel ..." Applicant has also amended claim 12 in this paper to recite "... a plurality of wires positioned on the fixed mask portion, each wire of the plurality of wires being disposed in a substantially spiral arrangement about a respective channel ..." Support for these amendments can be found in the specification at, for example, paragraph 031, and Figure 2.

On the other hand, the Examiner has not established that the cited references, either alone or in combination, teach or suggest either of the aforementioned limitations in combination with the other limitations of the rejected claims. For example, Applicant notes that the Examiner has asserted that US 6,027,619 to Cathey et al. ("*Cathey*") "... teaches (fig. 7) that the fixed mask portion can include a plurality of channels that extend through the fixed mask portion, with wires wrapped in a spiral configuration around each of the channels ..." (emphasis added). However, the Examiner has failed to

identify with any specificity whatsoever which element(s) disclosed in Figure 7 of *Cathey* is/are purported to correspond to the aforementioned elements.

Applicant thus respectfully submits that the Examiner has not established that each and every element as set forth in the claim is found in any single cited reference. Nor has the Examiner established that the identical invention is shown in any of the references in as complete detail as is contained in the claim.

Applicant thus further submits that the Examiner has not established a *prima facie* case of obviousness with respect to the rejected claims, at least because even if the references are combined in the various purportedly obvious fashions, the resulting combinations nonetheless fail to include all the limitations of the claims.

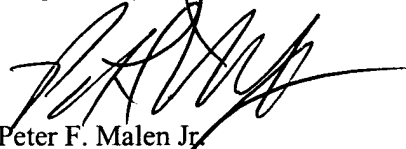
For at least the foregoing reasons, Applicant respectfully submits that the rejection of claims 1, 3-4, 6-8, 10-13 and 15-18 should be withdrawn.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1, 3-4, 6-8, 10-13 and 15-18 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 24<sup>th</sup> day of January, 2006.

Respectfully submitted,



Peter F. Malen Jr.  
Attorney for Applicants  
Registration No. 45,576  
**Customer No. 022913**  
Telephone: (801) 533-9800